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OFFICE OF PETITIONS

In re Application of
England
Application No. 10/665,613
Deposited: September 19, 2003
Attorney Docket No. G711
For: GAMING SYSTEM EMPLOYING
BOTH ACTION FIGURE AND VIDEO
GAME PLAY

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: DECISION GRANTING
: PETITION
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This is a decision on the petition, filed September 29, 2004 (certificate of mailing date September 24, 2004), requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed September 8, 2004.

The application was deposited on September 19, 2003. On September 8, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioner that a filing date had not been accorded to the application papers deposited on September 19, 2003 because the specification did not include at least one claim. In addition, the Notice stated that the application was missing an abstract.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the application be accorded a filing date of September 19, 2003 on the basis that a full specification, including claims and an abstract, was received in the Patent and Trademark Office (PTO) on September 19, 2003. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing September 19, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 24 pages of specification. Only pages 1-11 are present in the application file.

The return postcard constitutes *prima facie* evidence that 24 pages of specification were filed on September 19, 2003. MPEP 503. Accordingly, the request is **GRANTED**.

The petition fee submitted with the instant petition will be refunded via a treasury check that will be scheduled shortly.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **September 19, 2003**, using pages 12-24 of the specification that were submitted with the instant petition. OIPE will mail a filing receipt in due course.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

A handwritten signature in black ink, appearing to read "E. Shirene Willis". The signature is fluid and cursive, with the first letter of the first name being a large, stylized capital 'E'.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy